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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|-----------------|-------------|------------------------|---------------------|------------------|
| 09/914,329 | 04/15/2002 | Clifford Bruce Pollitt | 6385 | 2371 |

7590 06/09/2003

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EXAMINER

WYROZEBSKI LEE, KATARZYNA I

| ART UNIT | PAPER NUMBER |
|----------|--------------|
| 1714 | 7 |

DATE MAILED: 06/09/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

| | | |
|------------------------------|--------------------------------------|-------------------------|
| Office Action Summary | Application No. | Applicant(s) |
| | 09/914,329 | POLLITT, CLIFFORD BRUCE |
| | Examiner Katarzyna Wyrozebski Lee | Art Unit 1714 |

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1) Responsive to communication(s) filed on 24 August 2001.

2a) This action is **FINAL**. 2b) This action is non-final.

3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4) Claim(s) 1-16 is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5) Claim(s) _____ is/are allowed.

6) Claim(s) 1-16 is/are rejected.

7) Claim(s) _____ is/are objected to.

8) Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9) The specification is objected to by the Examiner.

10) The drawing(s) filed on _____ is/are: a) accepted or b) objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

11) The proposed drawing correction filed on _____ is: a) approved b) disapproved by the Examiner.

If approved, corrected drawings are required in reply to this Office action.

12) The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

13) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a) All b) Some * c) None of:

1. Certified copies of the priority documents have been received.
2. Certified copies of the priority documents have been received in Application No. _____.
3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

14) Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).

a) The translation of the foreign language provisional application has been received.

15) Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

| | |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) Paper No(s). _____. |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____. | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Claim Rejections - 35 USC § 112

1. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter, which the applicant regards as his invention.

2. Claim 10 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 10 contains limitation of the sand particle being angular or sub-angular. With respect to the description, it is not clear as to what the applicant exactly means by angular and sub-angular. More specific definition of this limitation was not discussed in the specification.

Claim Interpretation

The present claims call for composition comprising polybutadiene and flow control agent. The composition also comprises no more than 2% of aluminum oxide and no more than 1 % of ferrous oxide. Since lower limit of these two compounds have not been specified, the examiner reads the claims as composition claims having amounts of aluminum oxide from zero up to 2% and amount of ferrous oxide from zero up to 1%.

Claim Rejections - 35 USC § 102

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

4. Claims 1, 2, 4-6, 10-13 are rejected under 35 U.S.C. 102(b) as being anticipated by Pollitt (WO 98/44033).

The prior art '033 discloses composition for binding mixture. According to claims of the prior art '033, composition comprises polybutadiene in liquid form and flow control solvent.

According to the specification of '033 (page 2) the composition further comprises colorant and deodorizing additive. The flow controlling solvent is benzene (page 1, 2nd paragraph). The binding mixture is utilized with particulate matter such as ground glass (page 1, 3rd paragraph).

The mixture of '033 is mixed in air-tight container, which simply means in air-free environment.

In the light of the above disclosure, the prior art '033 anticipates the requirements of claims rejected above.

5. Claims 1-8, 10-16 are rejected under 35 U.S.C. 102(b) as being anticipated by Pollitt (GB 2,322,630).

The prior art '630 discloses settable composition mixture comprising polybutadiene and ground glass (Abstract).

According to claims of '630, the mixture comprises ground glass or mixture of ground glass with silica sand. Sand can replace 0.1-99.9% of ground glass (page 1, 3rd paragraph). Most preferred sand is kiln dried silica sand.

The composition further comprises colorant and benzene wherein benzene is disclosed as flow control agent (page 1, 6th paragraph). Benzene is de-aromatized (claim 10).

Polybutadiene is in its liquid form (claim 12) and the entire mixture is processed and kept in air-free environment (claim 11).

According to examples, polybutadiene is utilized in amount of 2-4 % by volume, benzene is utilized in an amount of 0.1-0.4 % and pigment in an amount of 0.1-0.5% with the balance of ground glass or mixture of ground glass and silica sand. The balance, would therefore equal to approximately 95%, 99.9 % if which can be silica sand.

In the light of the above disclosure, the prior art '630 anticipates requirements of claims rejected above.

6. Claims are rejected under 35 U.S.C. 102(b) as being anticipated by Pollitt (WO 98/21159).

The prior art '159 discloses settable mixture comprising liquid polybutadiene, flow enhancing material and particulate material (Abstract).

According to claims of the prior art '159, composition comprises dry sand, flow control agent is benzene or aliphatic hydrocarbon and polybutadiene is in liquid form.

According to claims polybutadiene is utilized in an amount of 1.5-6% by volume and the composition is bagged in air-tight environment. According to examples, aroma-free benzene is

utilized in amount of 0.1-0.4 % by volume while the kiln dried silica sand constitutes a balance (page 5). The balance therefore would be approximately 95 %. In the example, where carbon fibers are utilized, the amount of sand is 90%.

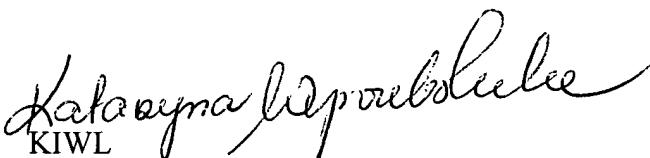
Preferred sand as it is mentioned above is kiln dried silica sand, which is special fraction size, and after drying can absorb water from the atmosphere, which would make the water content as that of the present invention.

In the light of the above disclosure, the prior art '159 anticipates the requirement of claims rejected above.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Katarzyna Wyrozebski Lee whose telephone number is (703) 306-5875. The examiner can normally be reached on Mon-Thurs 6:30 AM-4:00 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Vasu Jagannathan can be reached on (703) 306-2777. The fax phone numbers for the organization where this application or proceeding is assigned are (703) 872-9310 for regular communications and (703) 872-9311 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-0661.


KIWL
June 5, 2003